IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.127 OF 2005

Shivaji Maruti Jadhav. ... Applicant.
Versus.
The State of Maharashtra. ... Respondent.

Shri Ujwal A.Agandsurve for the Applicant.

Ms.S.D.Shinde, A.P.P. for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 20th June, 2005.

P.C.:

1. Heard the learned Counsel appearing for the parties. The learned Judicial Magistrate First Class convicted the Applicant for the offences punishable under section 304A and 279 of the Indian Penal Code and sentenced him to undergo imprisonment for a period of two years with fine of Rs.3000/-for offence punishable under section 304A IPC. In default the Applicant is sentenced to undergo further R.I. for tree months. A separate sentence under section 279 of IPC was awarded by the learned Magistrate directing the Applicant to undergo R.I. for six months with a fine of Rs.1000/- and both the sentences were directed to run concurrently. In an appeal preferred by the Applicant to the Sessions Court, conviction under section 279 IPC was set aside and the conviction was maintained only under section 304A of the IPC. Considering the age of the Applicant and other facts and circumstances of the case, the sentence was

reduced to one year from two years.

2. The learned Counsel appearing for the Applicant submitted that there was no evidence on record to establish the alleged negligent driving on the part of the Applicant. He submitted that the best available witness was not examined. Lastly he submitted that considering the young age of the Applicant and considering the fact that he has two young children, leniency may to be shown.

3. There is little scope for this Court to reappreciate the evidence in a Revision Application. This is not a case where any procedural irregularity or any manifest error of law is pointed out. The Courts have considered all the relevant evidence on record and have recorded the findings.

4. A finding is recorded that after dash was given by the jeep which was being driven by the Applicant, the bicycle was found at a distance of 25 feet from the place of impact. The Courts have accepted evidence of the eye witness that the Applicant was driving the jeep in rash and negligent manner and therefore, he was unable to control the vehicle. The findings recorded by the Courts that the Applicant was guilty of driving the jeep in a rash and negligent manner cannot be interfered with in a revision.

5. In so far as the last submission of the learned Counsel for the Applicant is concerned, the Sessions Court has already shown leniency by reducing the sentence from two years to one year. Further interference in the present revision cannot be done in the light of the decision of the Supreme Court reported in 2000(2) Crimes 280 (SC) (Dalbir Singh v/s.State of Haryana). The Apex Court has held while dealing with section 304 IPC as under:

> "When automobiles have become death traps any leniency shown to drivers who are found guilty of rash driving would be at the risk of further escalation of road accidents. All those who are manning the steering of automobiles, particularly professional drivers, must be kept under constant reminders of their duty to adopt utmost care and also of the consequences befalling them in cases of dereliction. One of the most effective ways of keeping such drivers under mental vigil is to maintain deterrent element in sentencing sphere. Any latitude shown to them in that sphere would tempt them to make driving frivolous and frolic."

The Apex Court has held that no latitude should be shown

to such offender. The submission made by the Counsel for the Applicant cannot be accepted. There is no merit in the Revision Application. The Revision Application is dismissed.

Judge.